



April 16, 2024

Joseph Sarracino
Planner
Lee County Community Development, Planning Section
1500 Monroe Street
Fort Myer, FL 33908

RECEIVED
APR 15 2024

COMMUNITY DEVELOPMENT

Re: **Royal Palm Multifamily CPA – Map Amendment
3rd INSUFFICIENCY RESPONSE LETTER
CPA2023-00011**

Dear Joe:

Enclosed please find responses to your insufficiency letter dated *April 12, 2024*. The following information has been provided to assist with the approval process:

1. Revised Exhibit M11 – Lee Plan Narrative
2. Title Opinion as Exhibit M7
3. Hard copy of labels to Zoning Counter

The following is a list of staff comments with our responses in **bold**:

APPLICATION MATERIALS COMMENTS

1. Please provide physical copies of the mailing labels (i.e. sticker labels) for property owners within 500 feet of the subject parcel.

RESPONSE: Labels have been printed and dropped off at counter on Floor 2 with a cover letter.

2. Provide a Title Opinion as referenced on the Boundary Survey for the subject property.

RESPONSE: The title opinion has been part of the RPD zoning package and is now uploaded in the CPA as well.



PLANNING COMMENTS

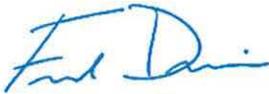
3. Updates proposed to Table 1(b) would create a population distribution that does not match Lee County's population projections and may not be required for development of the subject property.

RESPONSE: Exhibit M11 - Lee Plan Analysis has been updated to eliminate the narrative on Policy 1.6.5 after discussion with staff.

If you have any further questions, please do not hesitate to contact me directly at (239) 318-6707 or fdrovdlic@rviplanning.com.

Sincerely,

RVi Planning + Landscape Architecture



Fred Drovdlc, AICP
Planning Director



OPINION OF TITLE

Name of Issuing Attorney: Jennifer L. Fisher
Plat Number:
Development Order Number:
Effective Date of Opinion of Title: October 17, 2023 at 5:00 P.M.

Certified To: Lee County Board of County Commissioners

I am an attorney licensed and eligible to practice law in the State of Florida and I have searched the Public Records of Lee County, Florida and have examined the title to the real property more particularly described in the metes and bounds description attached hereto as Exhibit "A." I have made a careful examination of the Public Records of Lee County, Florida, with respect to the real property described in the attached Exhibit "A". This Opinion of Title is provided to satisfy the requirements of Lee County Land Development Code Section 34-202(a)(7). Based on the foregoing, I am of the opinion that:

Title to the property, as of the Effective Date of this Opinion of Title set forth above, is vested in:

Royal Palm Village Condominium Association, Inc., a Florida non-profit corporation, as Termination Trustee under the Plan of Termination of Royal Palm Village Condominium, recorded July 27, 2023, in Official Records Instrument Number 2023000254733, Public Records of Lee County, Florida.

The following are all of those persons or entities holding a mortgage secured by the property:

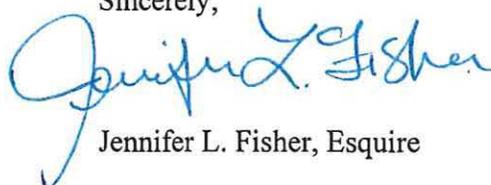
- A. **Mortgage executed by Salvatore J. Ditta and Kristin J. Erickson Ditta, husband and wife, Mortgagor, in favor of Fifth Third Mortgage Company, Mortgagee, dated June 8, 2007, in the original principal amount of \$78,300.00, recorded June 8, 2007, in Official Records Instrument Number 2007000183919. (Unit 69)**
- B. **Mortgage executed by Donald R. Derby, Sr. and Bonnie L. Derby, his wife, Mortgagor, in favor of Equity Trust Company d/b/a Sterling Trust Custodian FBO: Joseph J. Janas, Sr., Account #106155, Mortgagee, dated February 25, 2011, in the original principal amount of \$75,000.00, recorded March 17, 2011, in Official Records Instrument Number 2011000065732. Note: Satisfaction of Mortgage recorded in Official Records Instrument Number 2022000337609, is not executed by Equity Trust Company d/b/a Sterling Trust Custodian FBO: Joseph J. Janas, Sr. Account #106155. (Unit 25)**
- C. **Mortgage executed by R. Eugene Crye, Mortgagor, in favor of the Administrator of the U.S. Small Business Administration, an agency of the Government of the United**

States of America, Mortgagee, dated April 7, 2023, in the original principal amount of \$191,300.00, recorded May 3, 2023, in Official Records Instrument Number 2023000157468. (Unit 114)

The following are all easements and rights of way affecting the real property described in Exhibit A, whether recorded or unrecorded.

<u>Type of Easement</u>	<u>Recording Information</u>
1. Easement for public road right of way as contained in the Warranty Deed.	Recorded in Official Records Book 944 Page 359, Public Records of Lee County, Florida.
2. Easements as described in the in the Warranty Deed as rights of way for ditches for the benefit of the Iona Drainage District which rights of way were designated on the minutes of said Drainage District.	Recorded in Deed Book 182 Pages 401, of the Public Records of Lee County, Florida.
3. An 8' utility easement for the benefit of the parcel described in Lee County Public Records Book 1906, Page 3548, for the purpose of installing a sewer service line and for providing access to the Royal Palm Condominium Association, Inc.'s main sewer line as contained in the Agreement for Easement, Construction and Maintenance.	Recorded in Official Records Book 1996 Pages 4730, of the Public Records of Lee County, Florida.
4. An easement for the purpose of maintaining the existing sewage disposal service lines as contained in the Agreement for Easement and Maintenance of Sewage Disposal Service Lines	Recorded in Official Records Book 2022 Pages 1179, of the Public Records of Lee County, Florida.
5. An easement for the benefit of Comcast of California, XIV, LLC for the construction, use and maintenance of a broadband communications system as contained in the Grant of Easement.	Recorded at Instrument Number 2009000095034, Official Records of Lee County, Florida.
6. An easement for the benefit of Comcast Cable Communications Management, LLC for the construction, use and maintenance of a broadband communications system as contained in the Grant of Easement.	Recorded at Instrument Number 2020000022059, Official Records of Lee County, Florida.

Sincerely,



Jennifer L. Fisher, Esquire

Exhibit A

LEGAL DESCRIPTION

A tract or parcel of land lying in the Northeast 1/4 of Section 35, Township 45 South, Range 24 East, Lee County, Florida, further described as follows:

Commence at the Northeast corner of said Section 35; thence run North $89^{\circ}41'34''$ West, along the North line of the Northeast 1/4, of said Section 35, a distance of 253.80 feet, more or less to a concrete monument, being the Northwesterly corner of a parcel as recorded in Official Records Book 994, Page 648, Public Records of Lee County, Florida, and the Point of Beginning of the parcel herein described: From said Point of Beginning continue North $89^{\circ}41'34''$ West along said North line of the Northeast 1/4, of Section 35, a distance of 412.41 feet, to the Northwest corner of the East 1/2 of the Northeast 1/4 of the Northeast 1/4 of said Section 35; thence run South $00^{\circ}11'51''$ West, along the West line of said fraction, 1322.21 feet, more or less, to the Southwest corner of said fraction; thence continue South $00^{\circ}11'51''$ West, for 78.00 feet, more or less, to the centerline of Phillips Creek; thence run Northeasterly along the meander of said centerline of Phillips Creek to its intersection with the South line of the Northeast 1/4 of the Northeast 1/4 of said Section 35; thence run South $89^{\circ}24'41''$ East, along said South line, 332.25 feet, more or less, to the Southeast corner of said Northeast 1/4 of the Northeast 1/4 of Section 35; thence run North $00^{\circ}16'20''$ East, along the East line of said Section 35, 1009.27 feet, more or less, to a concrete monument on the Southwesterly Right of Way line of U.S. 41, (S.R. #45) (Tamiami Trail), said concrete monument is a P.C. of a curve to the right, having for its elements a radius of 2932.79 feet, a delta angle of $02^{\circ}07'51''$, an arc of 109.07 feet, and a chord bearing of North $19^{\circ}01'22''$ West; thence run along said curve to the right, for 109.07 feet to a concrete monument, being the Southeasterly corner of a parcel as recorded in Official Records Book 994, Page 648, Public Records of Lee County, Florida; thence run South $78^{\circ}51'01''$ West, along the Southernly line of said parcel, 150.51 feet to a concrete monument; thence run North $15^{\circ}49'59''$ West, for 253.17 feet to the Point of Beginning.



Royal Palm Multifamily CPA

Exhibit M11 – Lee Plan Analysis

I. REQUEST

Flournoy Development Group (“Applicant”) seeks to redevelop the former Royal Palm Village mobile home park property, located directly southwest corner of Old Gladius Road and US Highway 41, in unincorporated Lee County, Florida. The park flooded during Hurricane Ian and since that time the Flournoy Group has worked to successfully terminate all property ownership within the park and allow for this urban infill development that will be built to new FEMA flood standards. The Applicant seeks to develop the 19.33 +/- acres to allow for 391 multifamily apartments with supporting amenities.

To accomplish the density of the development program a Comprehensive Plan Map Amendment is required. The request will be to move the property from Central Urban to Intensive Development, which allows 14 dwelling units per acre in base density and 8 dwelling units per acre in bonus density, where 255 units are derived from base density and 136 from bonus density. The property is within the Coastal High Hazard Area which restricts the option of using bonus density; therefore, the requested use of the bonus density will be for up site-built affordable housing at 140% AMI.

A new access point is proposed on US 41 to provide access to Lee Tran and interconnectivity to the multi-use pedestrian and bicycle regional network in addition to the existing access onto Old Gladiolus Drive.

A companion RPD and Bonus Density Application has been submitted as DCI2023-00049.

II. PROPERTY HISTORY

The Property is located south of Old Gladius Road and west US Highway 41. The Property is located within the South Fort Myers Planning Community Area. The Property is currently developed as the Royal Palm Village property. Access is provided from Old Gladius Road. However, there is a drainage and stormwater management easement located on the southern portion of the property.

The Applicant has filed a Comprehensive Plan Map Amendments to change the Future Land Use (FLU) designation of the Property from “Central Urban” to “Intensive Development”.



III. EXISTING CONDITIONS

The property is in the South Fort Myers Planning Community Area and as mentioned above, it was historically developed as the Royal Palm Village (mobile home park). The mobile home park ownership has been terminated (see attached termination agreement recorded at the Lee County Clerk) and most units have been removed.

There are no known environmentally sensitive areas on site. The site does abut, and the property line extends over a portion of Phillips Creek to the south. Phillips Creek is a shallow waterway that connects to Otsego Bay and is part of the Hendry Creek watershed but is only navigable near the subject property by kayaks and low drag, small boats.

The area to the north is in Intensive Development, to the east and west Central Urban, and south in the Suburban future land use category. The zoning is a mix of C-1, CC, RM-2, and AG-2 districts. The property to the north, east and west is either multifamily or commercial making this parcel a perfect infill redevelopment in a central employment center. The properties to the south are single-family homes on larger lots that are on average 170 feet from the southern property line and 350-550 feet from the nearest proposed multifamily building.

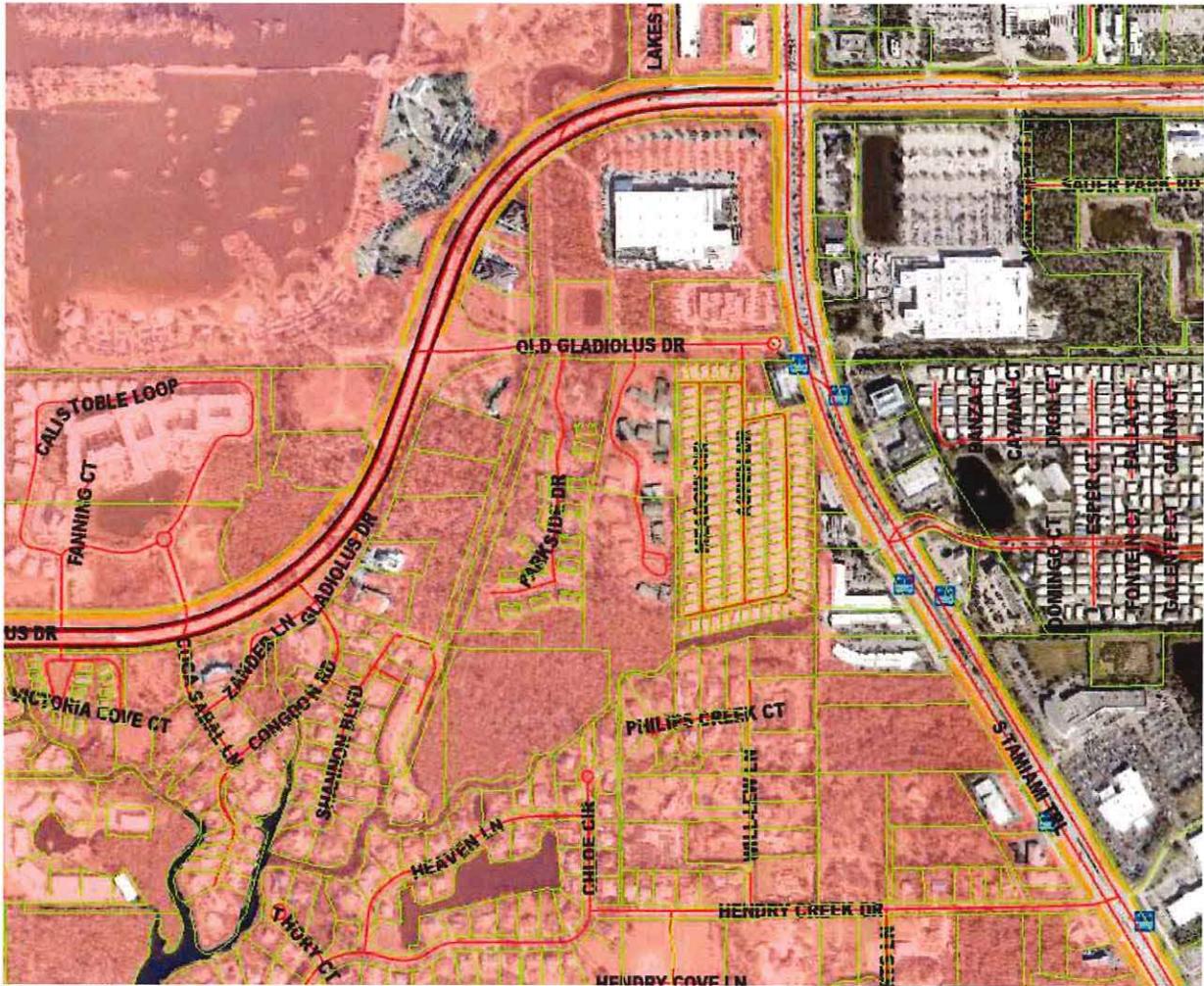
The surrounding area is as follows in the table below and map below.

Table 1: Inventory of Surrounding Lands

	FUTURE LAND USE	ZONING	EXISTING LAND USE
NORTH	Intensive Development	C-1	Infinity Car Dealership / retention
SOUTH	Central Urban / Suburban	RS-1; AG-2	Phillips Creek / Single Family Residential Homes
EAST	Central Urban	CC; C-1	Car Wash; Auto Shop; Speedway Gas Station, Retail Center
WEST	Central Urban	RM-2	Lost Tree Apartments

- **NORTH:** Old Gladius Road and the Infinity Car Dealership.
- **SOUTH:** Phillips Creek along with Single Family Residential Homes
- **EAST:** US 41 and commercial uses such as Car Wash; an Auto Shop, a Speedway Gas Station, and Retail Center
- **WEST:** The Lost Tree Multifamily apartments.

The site is not in any special overlay except the Property is within the Coastal High Hazard Area (CHHA) and Evacuation Zone A, but with no FEMA floodway concerns. The site is at the western most outskirts of the CHHA. The FEMA Flood Map places the site in the AE-11 zone.



Map 1- CHHA

Urban services are in place to serve intense development. The site has access to all major urban services including, but not limited to, public sanitary sewer and water, fire, EMS, police, parks, public schools, solid waste, transit with bus stop within 200 feet, and shared use paths.

V. PUBLIC INFRASTRUCTURE

The Property has access to the necessary utilities to service the project and all urban services are adequate to serve the proposed development.

- Letters of availability have been secured from Lee County Utilities for water and sanitary sewer.
- Roadways have adequate capacity as the site, as proposed, will have direct access onto US 41, a state maintained principal arterial, and secondary access to Gladiolus Drive, a Lee County maintained arterial via Old Gladiolus Drive Lee County local road.
- Lee Tran states the proposed development is within one-quarter mile of a fixed-route corridor and the closest bus stop is # 11490. Bus serves the South Fort Myers Area by via Route 140 (Merchants Crossing/Bell Tower) and Route 240 (Coconut Point Mall/Bell Tower) located at the car wash directly adjacent to the property (approximately less than 200 ft.) on both the northbound and southbound travel lanes along the US Highway 41 roadway.

- The US 41 proposed access provides connection to the shared use path on the west side of US 41.
- The site is entrance onto Old Gladiolus Drive is within ¼ mile of the shared path on Gladiolus Drive and the Lakes Park regional Lee County Park.
- South Trail Fire Station #63 is within one mile of the site north on US 41 to Harper Road.
- The Lee County Sheriff's South District primary substation is within one mile as is an EMS substation on Six Mile Cypress Parkway.

VII. LEE PLAN COMPLIANCE

The following is an analysis of the Comprehensive Plan Amendment, and the companion Residential Planned Development, meets consistency with goals, objectives and policies of the Lee County Comprehensive Plan (Lee Plan).

POLICY 1.1.2: The Intensive Development future land use category is located along major arterial roads. By virtue of their location, the County's current development patterns, and the available and potential levels of public services, areas with this designation are suited to accommodate high densities and intensities. Mixed use developments of high-density residential, commercial, limited light industrial, and office uses are encouraged to be developed as described in Objective 11.1, where appropriate. The standard density range is from eight dwelling units per acre (8 du/acre) to fourteen dwelling units per acre (14 du/acre), with a maximum total density of twenty-two dwelling units per acre (22 du/acre). The maximum total density may be increased to thirty dwelling units per acre (30 du/acre) utilizing Greater Pine Island Transfer of Development Units. (Ord. No. 94- 30, 09-06, 10-10, 16-07, 21-09).

The property is currently in the Central Urban FLUC and proposed to be in the Intensive Development FLUC. Both categories encourage uses that best serve the local residents and commuter traffic including dense multifamily development, particularly where urban services are present, and is near employment centers. As discussed in the existing conditions, this site in an excellently placed redevelopment with all urban level services in proximity with available capacities. It replaces a mobile home park that was in a risk area for flooding from tidally influenced waters abutting to the south. New construction at the proper flood elevations of a hurricane resistant multifamily structure is an appropriate infill development.

The property is in the Coastal High Hazard Area which restricts the option to build bonus density to site built affordable housing only. Therefore, the plan is to apply for a land use change to Intensive Development via Map Amendment. In the Intensive Category, this would allow for 14 du/acre of market rate units with an additional 8 du/acre available via bonus density as site-built affordable housing (140% AMI). The affordable housing restriction is not monitored by the state but by Lee County and expires after seven full years of operations. Our intended plan is to develop 391 units, or 21.5 units per acre. Therefore, sufficient acreage is allocated for the proposed development.

The applicant met with Lee County staff to discuss this methodology and staff appeared receptive to this entitlement change request. The request will need to satisfy criteria for hurricane evacuation times and be subject to hurricane impact mitigation.

POLICY 1.6.5: The Planning Districts Map and Acreage Allocation Table (Map 1-B and Table 1(b)) depict the proposed distribution, extent, and location of generalized land uses through the Plan's horizon. Acreage totals are provided for land in each Planning District in unincorporated Lee County. No development orders or extensions to development orders will be issued or approved by Lee County that would allow the acreage totals for residential, commercial or industrial uses contained in Table 1(b) to be exceeded. This policy will be implemented as follows:

Table 1(b) does not need updated. There is sufficiency acreage in the Intensive Development category.

OBJECTIVE 2.1: DEVELOPMENT LOCATION. Contiguous and compact growth patterns will be promoted through the rezoning process to contain urban sprawl, minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, prevent development patterns where large tracts of land are by-passed in favor of development more distant from services and existing communities.

The comprehensive plan map change to Intensive development to allow more density and bonus units for affordable housing, coupled with the proposed rezoning, will allow for a compact development pattern in an area intended for urban levels of intensity and density and permit redevelopment of infill units near transit and employment centers, as well as regional park and shared use path system.

The Intensive Land Use category and redevelopment proposed is in direct compliance with this and other policies in the Lee Plan. All urban services are available to the sight with major employment centers in close proximity and transit service within ¼ mile.

As outlined in detail within the comprehensive plan and zoning applications, the project provides for compatibility with the surrounding mixed uses of moderately high-density residential development and commercial uses. Development within the project is compacted with four 4-story buildings providing sufficient open space and supporting amenities. Long existing multifamily developments are located directly west of the Property. As a result, this RPD makes efficient use of this planned extension of infrastructure and eliminates development patterns dependent on well and septic as Lee County Utilities has stated they have capacity to serve the increased density proposed.

OBJECTIVE 2.2: DEVELOPMENT TIMING. Direct new growth to those portions of the Future Urban Areas where adequate public facilities exist or are assured and where compact and contiguous development patterns can be created. Development orders and permits (as defined in F.S. 163.3164(7)) will be granted only when consistent with the provisions of Sections 163.3202(2)(g) and 163.3180, Florida Statutes and the county's Concurrency Management Ordinance.

All urban levels of service are available with capacity. The Property is contiguous to developed or developing properties along US 41, representing logical and efficient growth within the Central Urban or Intensive Development FLUC. The Applicant has provided letters of availability and a detailed explanation of the public facilities and services available to support future development of the Property. The proposed rezoning fully complies with the above policy's intent to direct new growth to appropriate Future Urban Areas of the county.

POLICY 2.2.1: Rezoning's and Development of Regional Impact proposals will be evaluated as to the availability and proximity of the road network; central sewer and water lines; community facilities and services such as schools, EMS, fire and police protection, and other public facilities; compatibility with surrounding land uses; and any other relevant facts affecting the public health, safety, and welfare.

The road network in the region has been constructed to support the character of the area with direct access (proposed) onto a major arterial (US 41) and access to Summerlin Road, a second major arterial via Old Gladiolus Drive, both roads with capacity.

The Property is located within Lee County Future Water and Sewer Franchise Areas and will connect to both sewer and water service. The property is near existing networks, utility services and compatible, similar land uses. The utility service area currently abuts the eastern boundary.

There are adequate public facilities and services in the immediate vicinity of the project to serve the proposed development in terms of schools, fire, EMS and Sheriff's protection.

The proposed Master Concept plan provides compatibility with surrounding areas through the provision of expansive preserve areas and significant distances between residential lots and the project boundary.

As a result, the proposed development is completely internalized from surrounding development. Finally, buffering, maximum building heights, and development standards are similar to other planned developments approved in the South Fort Myers Planning Community.

GOAL 4

OBJECTIVE 4.1: WATER, SEWER, AND ENVIRONMENTAL STANDARDS. Consider water, sewer, and environmental standards during the rezoning process. Ensure the standards are met prior to issuing a local development order. (Ord. No. 17-13)

STANDARD 4.1.1: WATER.

- 1. Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development in excess of 30,000 square feet of gross leasable (floor) area per parcel, must connect to a public water system (or a "community" water system as that is defined by Fla. Admin. Code R. 62-550).***

The site is currently serviced by Lee County Utilities for sewer and water and has capacity to continue serving the increased density proposed. A letter of utility availability has been secured from LCU.

- 2. If the proposed development lies within the boundaries of a water utility's certificated or franchised service area, or Lee County Utilities' future potable water service area (see Map 4- A), then the development must be connected to that utility.***

According to Lee Plan Map 4-A and 4-B the site lies within the LCU Future Sewer and Water Service Area. The project will connect to Lee County Sewer and Water Service.

- 3. The developer must provide proof that the prior commitments of the water utility, plus the projected need of the developer, do not exceed the supply and facility capacity of the utility.***

We have received a letter of utility availability from LCU that states service and capacity is available to serve the projected needs of this sight.

- 4. All waterline extensions to new development will be designed to provide minimum fire flows, as well as adequate domestic services as required by Fla. Admin. Code R. 62-555.***

There is current service to the site so no need for expanded service lines.

- 5. If a new development is located in a certificated or franchised service area, or Lee County Utilities' future potable water service area (see Map 4-A), and the utility cannot provide the service or cannot provide the service except at a clearly unreasonable cost to the developer, the developer is encouraged to petition the appropriate regulatory agency to contract the service area so that the development may establish its own community water system or invite another adjacent utility to expand its service area in order to provide the required service.***

According to Lee Plan Map 4-A and 4-B the site lies within the LCU Future Sewer and Water Service Area. The site is served by LCU and the project will connect to Lee County Sewer and Water Service.

- 6. If a development lies outside any service area as described above, the developer may:***
 - request that the service area of Lee County Utilities or an adjacent water utility be extended to incorporate the property;***
 - establish a community water system for the development; or***
 - develop at an intensity that does not require a community water system.***

Not applicable.

- 7. Lee County Utilities may provide potable water service to properties not located within the future water service area when such potable water service is found to benefit public health, safety, and welfare, including protection of Lee County's natural resources.***

Not applicable.

STANDARD 4.1.2: SEWER.

- 1. Any new residential development that exceeds 2.5 dwelling units per gross acre, and any new single commercial or industrial development that generates more than 5,000 gallons of sewage per day, must connect to a sanitary sewer system.***

The site is currently serviced by Lee County Utilities for sewer and water and has capacity to continue serving the increased density proposed. A letter of utility availability has been secured from LCU that states there is capacity for service the density proposed.

2. ***If the proposed development exceeds the thresholds listed above and lies within the boundaries of a sewer utility's certificated or franchised service area, or Lee County Utilities' future sanitary sewer service area (see Map 4-B), and that utility has sufficient capacity to provide minimum service to the development, then the development must connect to that sewer utility if there is existing infrastructure adequate to accept the effluents of the development within 1/4 mile from any part of the development.***

According to Lee Plan Map 4-B it is within the Future Sewer Service Area for Lee County. A letter of utility availability has been secured from LCU that states there is capacity for service the density proposed.

3. ***If there is not sufficient capacity nor adequate infrastructure within 1/4 mile of the development, the developer must provide proof in the form of a clearly stated rejection of service.***

Not applicable.

4. ***If a new development is located in a certificated or franchised service area, or Lee County Utilities' future sanitary sewer service area (see Map 4-B), and the utility cannot provide the service, or cannot provide the service except at a clearly unreasonable cost to the developer, the developer may establish on a temporary basis a self-provided sanitary sewer facility for the development, to be abated when the utility extends service to the site. The developer may also petition the appropriate regulatory agency to contract the service area of the utility in order that another utility may be invited to provide the service.***

Not applicable.

5. ***If a development lies outside any service area as described above, the developer may:***
- ***request that the service area of Lee County Utilities or an adjacent sewer utility be expanded to incorporate the property;***
 - ***establish a self-provided sanitary sewer system for the development;***
 - ***develop at an intensity that does not require sanitary sewer service; or***
 - ***if no more than 5000 gallons of effluent per day per parcel is produced, an individual sewage disposal system per Fla. Admin. Code R. 64E-6 may be utilized, contingent on approval by all relevant authorities.***

Not applicable.

6. ***Lee County Utilities may provide sanitary sewer service to properties not located within the future sewer service area when such sanitary sewer service is found to benefit public health, safety, and welfare, including protection of Lee County's natural resources.***

Not applicable.

STANDARD 4.1.3: REUSE

According to LCU in the letter of service availability reuse is not served to this site.

GOAL 5 (RESIDENTIAL LAND USES)

OBJECTIVE 5.1: All development approvals for residential, commercial, and industrial land uses must be consistent with the following policies, the general standards under Goal 4, and other provisions of this plan. (Ord. No. 94-30, 00-22)

POLICY 5.1.3: During the rezoning process, direct high-density residential developments to locations that are near employment and shopping centers; are close to parks and schools; and are accessible to mass transit and bicycle facilities. (Ord. No. 94-30)

The request is intended to allow for the development of multifamily residential dwellings on the 19.33-acre property in the form of a Residential Planned Development subject to conditions, performance/design standards, limited schedule of uses, and a binding Master Concept Plan. The request will ensure that the property is developed with uses similar neighboring properties, thereby protecting the character and integrity of the existing communities.

- The site is within one mile of major employment businesses including but not limited to Home Depot, Lowe's Wal-Mart and an entire commercial corridor along US 41 extending a significant distance north and south.
- Lee Tran serves the South Fort Myers Area by via Route 140 (Merchants Crossing/Bell Tower) and Route 240 (Coconut Point Mall/Bell Tower) located at the car wash directly adjacent to the property (approximately less than 200 ft.) on both the northbound and southbound travel lanes along the US Highway 41 roadway.
- The US 41 proposed access provides connection to the shared use path on the west side of US 41.
- The site is entrance onto Old Gladiolus Drive is within ¼ mile of the shared path on Gladiolus Drive and the Lakes Park regional Lee County Park.

POLICY 5.1.2: Prohibit residential development where physical constraints or hazards exist, or require the density and design to be adjusted accordingly. Such constraints or hazards include but are not limited to flood, storm, or hurricane hazards; unstable soil or geologic conditions; environmental limitations; aircraft noise; or other characteristics that may endanger the residential community.

The proposed residential development is a multifamily structure that is designed to meet the current FEMA design elevation as the property is in the Coastal High Hazard Area. The proposed buildings will be designed to sustain hurricane and the resulting flood waters that made the former mobile home park uninhabitable.

POLICY 5.1.5: Protect existing and future residential areas from any encroachment of uses that are potentially destructive to the character and integrity of the residential environment. Requests for conventional rezonings will be denied in the event that the buffers provided in the LDC, Chapter 10, are not adequate to address potentially incompatible uses in a satisfactory manner. If such uses are proposed in the form of a Planned Development or special exception and generally applicable development regulations are deemed to be

inadequate, conditions will be attached to minimize or eliminate the potential impacts or, where no adequate conditions can be devised, the application will be denied altogether. The LDC will continue to require appropriate buffers for new developments.

In isolation the increasing of potential density and intensity on the site by changing the FLUC from Central Urban to Intensive Development may seem that the request is not compatible with this request as there are a half dozen single-family homes to the south across the creek. However, when taken with the RPD zoning the site plan pays close attention to the layout to keep height and intense uses away from the single-family homes. The site plan complies with LDC requirements for a 50-foot natural waterway buffer which is a substantial increase in buffer area over the previous mobile home location, some of which were with 10 feet to the top of bank. The building placement is a minimum of 400 feet from the closest home with heights that are barely visible from the edge of the single-family lots to the south. The multifamily use is appropriate in this area as infill development near major employment centers as long as care is taken with site planning and proper buffering as conditioned in the zoning.

POLICY 5.1.6: Maintain development regulations that require high-density, multi-family, cluster, and mixed use developments to have open space, buffering, landscaping, and recreation areas appropriate to their density and design. (Ord. No. 94-30)

The proposed development will maintain the requirements for 40% open space, all required buffers, and a natural waterway 50-foot buffer on the south boundary. Amenities will be on site including pickle ball, dog park, and clubhouse with gym and meeting areas.

POLICY 5.1.7: Maintain development regulations that require that community facilities (such as park, recreational, and open space areas) in residential developments are functionally related to all dwelling units and easily accessible via pedestrian and bicycle pathways. These pathways must be interconnected with adjoining developments and public pathways whenever possible. Townhouses, condominiums, apartments, and other types of multi-family residential development must have directly accessible common open space. (Ord. No. 94-30, 00-22).

The proposed RPD includes 40% open space, car wash area, dog park, pickle ball courts and a community amenity center with additional recreational facilities. Sidewalks are provided on both sides of all internal roadways and provide pedestrian and bicycle connections to US 41. A multi-use pathway is located along US 41. All open space and amenities will be directly accessible to all residents within the RPD.

POLICY 5.2.4: The site design of the proposed development must be compatible with surrounding land uses to the maximum extent possible. (Ord. No. 10-08)

The request will ensure that the property is developed with uses similar to neighboring properties. The intensive land use category abuts this property to the north while the development to the north and east is of intense nature that allows this to be dense urban infill with affordable bonus density units.

Impacts to surrounding land uses are minimal due to the similarity of intent and intensity of uses. The zoning conditions and LDC requirements have adequately addressed any potential impacts on adjacent uses.

The proposed RPD includes development standards which comply with the South Fort Myers Community regulations. A minimum 50-foot buffer will be provided to adjacent single-family properties to the south.

POLICY 54.1.2: In developing and implementing local landscape regulations including the preservation, reforestation, and wetlands restoration requirements, preference will be given to native species which are adapted to the region's climatic regime.

The site is currently developed as a mobile home park. The Project site does not contain any wetlands or surface waters. Phillips Creek is located directly south of the Property.

The attached Environmental Report did not show the existence of the listed species such as the American Alligator, Florida Burrow Owl, Gopher Tortoises, Southeastern American Kestral, and Wood Storks on the property.

POLICY 54.1.6: Maintain development regulations that require new development to connect to a reuse water system if a system is near the development and has sufficient capacity.

Lee County states that reuse is NOT available to the site.

POLICY 61.1.1: Lee County recognizes that all fresh waters are a resource to be managed and allocated wisely and will support allocations of the resource on the basis 1) of ensuring that sufficient water is available to maintain or restore valued natural systems, and 2) of assigning to any specified use or user the lowest quality freshwater compatible with that use, consistent with financial and technical constraints.

The Applicant will obtain an Environmental Resource Permit from the South Florida Water Management District. The master drainage system and established conservation areas proposed in this amendment request, and which will be established through the ERP and subsequent development orders, are designed in compliance with this policy.

OBJECTIVE 61.3: GENERAL SURFACE WATER MANAGEMENT STANDARDS. Lee County will continue to provide sufficient performance and/or design standards for development protective of the function of natural drainage systems.

POLICY 61.3.6: Require developments to provide surface water management systems, acceptable programs for operation and maintenance, and post-development runoff conditions that reflect the natural surface water flow rate, direction, quality, hydroperiod, and drainage basin.

Please refer to the surface water management plan in Exhibit M14.

POLICY 61.3.7: Channelization of natural streams and rivers is prohibited; channelization of other natural watercourses is discouraged.

No change will be made to the natural stream to the south. A dog park amenity is located within the Project and is adjacent to the Phillips Creek. Regulations are in compliance with the LDC.

POLICY 95.1.3: LOS standards will be the basis for planning and provision of required public facilities and services within Lee County. Regulatory LOS standards will be the basis for determining the adequacy of public facilities for the purposes of permitting new development. Compliance with non-regulatory LOS standards will not be a requirement for continued development permitting but will be used for facility planning purposes. The LOS will be the basis for facility design, for setting impact fees, and (where applicable) for the operation of the Concurrency Management System (CMS).

- a. Sanitary Sewer – Lee County Utilities serves the area and has capacity. LCU has stated in a letter of availability.
- b. Potable Water – Lee County Utilities serves the area and has capacity. LCU has stated in a letter of availability.
- c. Surface Water/Drainage Basins – The property is intended to be developed as part of and RPD (DCI2023-00049). The project will be required to meet all LDC provisions for surface water management, pre-treatment, storage and treatment including the System Requirement: Prevent the flooding of designated evacuation routes on The Lee Plan Map 15 from the 25-year, 3-day storm event (rainfall) for more than 24 hours.
- d. Parks, Recreation, and Open Space – Lee County Parks and Recreation has provided a letter of service availability.
- e. Public Schools – A letter of capacity has been received from Lee County Schools.

POLICY 101.1.4: Require that comprehensive plan amendments which increase density within the Coastal High Hazard Area or on islands meet one of the following criteria in accordance with § 163.3178(8), Fla. Stat.:

1. *Will not result in an out of County hurricane evacuation time that exceeds 16 hours for a Category 5 storm event (Level E storm surge threat); or*
2. *Will maintain a 12-hour evacuation time to shelter for a Category 5 storm event (Level E storm surge threat) and ensure shelter space is available to accommodate the additional population; or*
3. *Will provide appropriate mitigation as determined by Lee County Department of Public Safety, to satisfy both criteria above, which may include the payment of money or construction of hurricane shelters and transportation facilities.*

Please see the report by JR Evans, which is part of the original submittal as "Exhibit M12 - Risk Evac Analysis Comp 01.30.2024", that addresses these criteria and shows that the proposed development meets at least one of the criteria.

POLICY 101.3.2: Restrict development in the Coastal High Hazard Area to uplands except as needed for the provision of public facilities.

The site contains 18.17 acres of upland out of 19.33 total acres. The proposed Master Concept Plan (MCP) limits development to the upland acreage. The Acreage that is not considered upland is the area of Phillips Creek that is within the boundary. Development is restricted to within 50-feet of this natural waterway by way of required buffers.

POLICY 101.3.6: Prohibit the use of Transferable Development Units (TDUs) and bonus density utilizing cash contributions for affordable housing on property located within the Coastal High Hazard Area.

The proposed development is proposing using up to 145 units of bonus density as permitted by the proposed land use change. According to this policy the request for bonus density includes all units to be site built affordable units at 140% or less of AMI.

POLICY 101.3.7: Bonus density for site-built affordable housing development will be considered within the Coastal High Hazard Area.

As mentioned, the request for bonus density includes the limitation for the units to be site built affordable making the request consistent with this policy.

The applicant feels the consideration of bonus density in this area is good planning. The former mobile home flooded 2-3 feet in Hurricane Ian. Since that time the Flournoy Group and the Royal Palm Village POA have successfully terminated the 132 individual lots making way for redevelopment. It is telling that this was able to be accomplished. A CHHA is not an appropriate location for mobile homes, particularly on older parcels that are not raised to current base flood elevations. Repeated flood risks prompted the corporation of the termination.

The site is in the middle of a major employment area, abutted by multifamily developments, acts as an appropriate transition from commercial activity on US 41 to lower densities, has access to two major arterials (with proposed new access to US 41), is within one mile of Lakes Park, has access to Lee Tran with ¼ mile of a bus stop, is serviced by all major urban services as confirmed by the letters of availability for the Lee Plan map amendment letters received. The site is perfect for higher density infill redevelopment, particularly when considering the structures will be built to modern codes and FEMA flood elevations.

POLICY 125.1.2: New development and additions to existing development must not degrade surface and ground water quality.

POLICY 125.1.3: The design, construction, and maintenance of artificial drainage systems must provide for retention or detention areas and vegetated swale systems that minimize nutrient loading and pollution of freshwater and estuarine systems.

The permit process will require a water quality management plan addressing the issues in these policies. The draft plan is part of Exhibit M14.

IX. CONCLUSION

The proposed Flournoy Multifamily CPA allows for redevelopment into a well-planned multifamily community which accommodates increasing demand for vertical density and will allow for increase bonus density, which is limited to affordable multi-family housing, to be integrated into the surrounding employment center.

The proposed Flournoy Multifamily RPD also provides significant protection to the surrounding neighborhood to the south through a site plan which internalizes development through sufficient buffers and setbacks, two access points, and restoration supporting amenities on site.